

Virginia Administrative Code

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CHAPTER 325

REGULATIONS GOVERNING PINE SHOOT BEETLE

2VAC5-325-10. Definitions.

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Certificate" means a document in which an inspector affirms that a specified regulated article is free of pine shoot beetle and may be moved to any destination outside the area under quarantine.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, receiving or moving regulated articles and the Virginia Department of Agriculture and Consumer Services, the U.S. Department of Agriculture, or both, wherein the former agrees to comply with the requirements of the compliance agreement.

"Infestation" means the presence of the pine shoot beetle or the existence of circumstances that make it reasonable to believe that the pine shoot beetle is present.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine or regulation.

"Limited permit" or "permit" means a document in which an inspector affirms that the regulated article identified on the document is eligible for movement in accordance with this regulation only to a specified destination and only in accordance with specified conditions.

"Moved," "move," or "movement" means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

"Person" means any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

"Pine nursery stock" means all *Pinus* spp. woody plants, shrubs, and rooted trees, including dug (balled and burlaped) Christmas trees, and ornamental pine, such as bonsai.

"Pine shoot beetle" means the insect known as pine shoot beetle, *Tomicus piniperda* (Linnaeus), in any stage of development.

"Virginia Pest Law" means the statute set forth in Article 1 (§ 3.2-700 et seq.) of Chapter 7 of Title 3.2 of the Code of Virginia.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003; amended, Virginia Register Volume 25, Issue 11, eff. March 4, 2009; Errata, 25:13 VA.R. 2565 March 2, 2009.

2VAC5-325-20. Regulated articles.

The following articles are regulated under the provisions of this quarantine, and shall not be moved out of any regulated area within Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Pine products (*Pinus* spp.), as follows: bark nuggets (including bark chips); Christmas trees; logs with bark attached; lumber with bark attached; nursery stock; raw pine materials for wreaths and garlands; and stumps.
2. Any article, product, or means of conveyance which, in the determination of the Commissioner of the Department of Agriculture and Consumer Services (commissioner), presents the risk of spread of the pine shoot beetle.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-30. Regulated areas.

The following areas in Virginia:

The entire counties of:

Clarke

Loudoun

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003; amended Virginia Register Volume 27, Issue 6, eff. November 5, 2010.

2VAC5-325-40. Conditions governing the intrastate movement of regulated articles.

A. Movement within regulated areas. Movement of a regulated article solely within the regulated area is allowed without restriction.

B. Any regulated article may be moved intrastate from a regulated area only if moved under the following conditions:

1. With a certificate or limited permit issued and attached in accordance with 2VAC5-325-50 and 2VAC5-325-80 of this quarantine.

2. Without a certificate or limited permit, if:

a. (1) The regulated article originates outside any regulated area and is moved through the regulated area without stopping (except for drop-off loads, refueling, or traffic conditions, such as traffic lights or stop signs) during October, November, or December, or when ambient air temperature is below 10 degrees Celsius (50 degrees Fahrenheit); or

(2) The regulated article originates outside any regulated area and, during the period of January

through September, is moved through the regulated area at a temperature higher than 10 degrees Celsius (50 degrees Fahrenheit), if the article is shipped in an enclosed vehicle or completely covered (such as with plastic, canvas, or other closely woven cloth) so as to prevent access by the pine shoot beetle; and

b. The point of origin of the regulated article is indicated on the waybill.

3. With a limited permit issued by the Commonwealth if the regulated article is moved:

a. By a state or federal agency for experimental or scientific purposes;

b. Under conditions, specified on the permit, which the commissioner has found to be adequate to prevent the spread of the pine shoot beetle; and

c. With a tag or label, bearing the number of the permit issued for the regulated article, attached to the outside of the container of the regulated article or attached to the regulated article itself, if the regulated article is not in a container.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-50. Issuance and cancellation of certificates and limited permits.

A. An inspector may issue a certificate for the intrastate movement of a regulated article if the inspector determines that:

1. a. The regulated article has been treated under the direction of an inspector in accordance with 2VAC5-325-100 of this quarantine;

b. Based on inspection of the premises of origin, if the regulated article is a greenhouse-grown pine (such as bonsai), that the greenhouse is free from the pine shoot beetle and is screened to prevent entry of the pine shoot beetle;

c. Based on inspection of the regulated article, if the regulated article is a pine seedling or a

pine transplant and is no greater than 36 inches high with a bole diameter at soil level of 1 inch or less, that it is free from the pine shoot beetle;

d. Based on inspection by an inspector (branch tip-by-branch tip) of pine nursery stock, that it is free from the pine shoot beetle; or

e. If the regulated article is a pine log with bark attached or pine lumber with bark attached or a pine stump, that its source tree has been felled during the period of July through October; and

2. a. The regulated article will be moved through the regulated area during October, November, or December, or when the ambient air temperature is below 10° Celsius (50° Fahrenheit);

b. The regulated article will be moved through the regulated area during the period of January through September, if the ambient air temperature is 10° Celsius (50° Fahrenheit) or higher, in an enclosed vehicle or completely enclosed by a covering adequate to prevent access by the pine shoot beetle; or

c. The pine log with bark attached, pine lumber with bark attached, or pine stump, from a tree felled during the period of July through October, will be shipped intrastate from the regulated area during the period of July through October; and

3. The regulated article is to be moved in compliance with any additional conditions deemed necessary under the Virginia Pest Law to prevent the spread of the pine shoot beetle; and

4. The regulated article is eligible for unrestricted movement under all other state or federal domestic plant quarantines and regulations applicable to the regulated articles.

B. An inspector may issue a limited permit for the intrastate movement of a regulated article if the inspector determines that:

1. a. The regulated article is to be moved intrastate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this intrastate movement will not result in the spread of the pine shoot beetle. If the regulated article is part of a shipment of pine Christmas trees, the inspector will make a pest-risk

determination on the basis of an inspection conducted in accordance with 2VAC5-325-50 C of this quarantine; or

b. The regulated article is to be moved intrastate from a regulated area to a regulated area and will transit any nonregulated area in an enclosed vehicle or completely enclosed by a covering adequate to prevent access by the pine shoot beetle; and

2. The regulated article is to be moved in compliance with any additional conditions deemed necessary under the Virginia Pest Law to prevent the spread of the pine shoot beetle; and

3. The regulated article is eligible for interstate movement under all other state or federal domestic plant quarantines and regulations applicable to the regulated article.

C. The number of pine Christmas trees randomly selected for inspection is determined by the size and type of shipment, in accordance with the following tables. If a shipment mixes painted and natural trees, the inspection procedure for painted trees will apply. If a pine shoot beetle is detected in any one of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, "All trees that remain unsold as of December 25 must be destroyed by burning or chipping, or must be fumigated, prior to January 1."

Table 1. -- Painted (Color-Enhanced) Pine Christmas Trees

No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample
1-72	All	301-400	111	701-800	120	2,001-3,000	127
73-100	73	401-500	115	801-900	121	3,001-5,000	128
101-200	96	501-600	117	901-1,000	122	5,001-10,000	129
201-300	106	601-700	119	1,001-2,000	126	10,001 or more	130

Table 2.-- Natural (Unpainted) Pine Christmas Trees

No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample
1-57	All	201-300	75	501-600	80	1,001-3,000	84
58-100	58	301-400	77	601-700	81	3,001-10,000	85
101-200	69	401-500	79	701-1,000	82	10,000 or more	86

D. Certificates and limited permits for use for intrastate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the intrastate movement of a regulated article if an inspector has determined that the regulated article is otherwise eligible for a certificate in accordance with subsection A of this section. A person operating under a compliance agreement may issue a limited permit for intrastate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with subsection B of this section.

E. Any certificate or limited permit that has been issued or authorized may be withdrawn by the inspector orally or in writing if he determines that the holder of the certificate or limited permit has not complied with all conditions for the use of the certificate or limited permit or with any applicable compliance agreement. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-60. Compliance agreements and cancellation.

A. Any person engaged in growing, handling, or moving regulated articles may enter into a compliance

agreement when an inspector determines that the person understands this quarantine. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

B. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this quarantine. If the cancellation is oral, the cancellation and the reasons for the cancellation shall be confirmed in writing as promptly as circumstances allow.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-70. Assembly and inspection of regulated articles.

A. Any person (other than a person authorized to issue certificates or limited permits under 2VAC5-325-50 D), who desires to move a regulated article intrastate accompanied by a certificate or limited permit shall apply for inspection as far in advance as possible.

B. The regulated article must be assembled at the place and in the manner the inspector designates as necessary to facilitate inspection and comply with this quarantine. The regulated article shall be safeguarded from infestation.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-80. Attachment and disposition of certificates and limited permits.

A. A certificate or limited permit required for the intrastate movement of a regulated article must be

attached, at all times during the intrastate movement, to the outside of the container containing the regulated article, or to the regulated article itself, if not in a container. The requirements of this section may also be met by attaching the certificate or limited permit to the consignee's copy of the waybill, provided the regulated article is sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

B. The certificate or limited permit for the intrastate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-90. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and pine shoot beetles as provided in the Virginia Pest Law under which this quarantine is issued.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-100. Treatments.

A. Fumigation is authorized for use on pine logs with bark attached, pine lumber with bark attached, pine bark nuggets (including bark chips), and pine stumps, as follows: logs, lumber, and stumps may be treated with methyl bromide at normal atmospheric pressure with 48 g/m³ (3 lb/1000 ft³) for 16 hours at 21° Celsius (70° Fahrenheit) or above, or 80 g/m³ (5 lb/1000 ft³) for 16 hours at 4.5° through 20.5° Celsius (40° through 69° Fahrenheit).

B. Cold treatment is authorized for cut pine Christmas trees, pine nursery stock, and raw pine materials for pine wreaths and garlands as follows: The regulated articles must be loaded into a refrigeration unit and held at -20.6° Celsius (-5° Fahrenheit) for one hour; the period before the refrigeration unit reaches the specified temperature is not part of the treatment period.

C. Any one of these fumigation treatments is authorized for use on cut pine Christmas trees and raw pine materials for pine wreaths and garlands. Cut pine Christmas trees and raw pine materials for pine wreaths and garlands may be treated with methyl bromide at normal atmospheric pressure as follows:

Temperature	Dosage: lbs/1000 ft ³	Exposure: hours	Concentration readings: ounces per 1000 ft ³			
			2.0 hrs.	3.0 hrs.	3.5 hrs.	4.0 hrs.
40-49°F	4.0	4.0	57	--	--	48
50-59°F	4.0	3.5	57	--	48	--
50-59°F	3.5	4.0	50	--	--	42
60°F +	4.0	3.0	57	48	--	--
60°F +	3.0	4.0	43	--	--	36

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-110. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services shall not be liable for:

1. Any costs incident to inspections required under the provisions of the quarantine and regulations, other than for the services of the inspector.
2. Damage to cut pine Christmas trees due to possible phytotoxic effects of authorized treatments.

Trees should be cut at least 14 days before treatment to reduce the possibility of phytotoxic effects.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.

2VAC5-325-120. Revocation of this regulation.

This regulation may be revoked by either the Commissioner of the Department of Agriculture and Consumer Services or the Board of Agriculture and Consumer Services when such party is satisfied that the need for the regulation no longer exists. No revocation may take effect unless notice of the revocation is filed with the Registrar of Regulations. Once the notice has been filed, the effective date of the revocation shall be the filing date (unless the notice specifies an effective date that is later than the filing date, in which case that later date shall be the effective date).

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 20, Issue 9, eff. December 15, 2003.
